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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Lichtinger, et al.

Serial Number: 09/507,868 Group Art Unit: 2855

Filed: February 22, 2000 Examiner: McCall, Eric S.

Title: METHOD AND APPARATUS FOR SENSING
SEAT OCCUPANT WEIGHT

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REPLY BRIEF

Dear Sir:

Responsive to the Examiner's Answer dated April 29, 2003, please consider the following remarks. The appeal brief fee has already been paid. Any additional fees or credits may be charged or applied to Deposit Account No. 50-1482 in the name of Carlson, Gaskey & Olds.

REMARKS

Appellant respectfully reiterates all of the arguments made in the Appeal Brief and in previous Office Action responses to address the Examiner's Answer. Additional arguments, prepared in response to new issues raised in the Examiner's Answer, are set forth below.

(1) Status of Claims

Claims 1-7, 19-21, and 24-38 remain in the application. Claims 8-18, 22, and 23 have been cancelled. In the Examiner's Answer, the Examiner allowed claims 19-20 and indicated claim 28 as allowable. Thus, only claims 1-7, 21, 24-27, 29-38 remain on appeal.

Claims 1-7, 24-27, 29, and 31-37 stand rejected under 35 U.S.C. 102(e).

Claims 21, 30, and 38 stand rejected under 35 U.S.C. 103(a).

(2) Group A - Claims 1-4 and 24

The examiner argues that Verma teaches a first track 26 and a second track 16, 18, 20 that is mounted for movement relative to the first track 26 and where a sensor 30 is mounted on one of the tracks 18. Applicant respectfully disagrees with this interpretation of Verma. Verma does not teach mounting a sensor to a seat track, as claimed by Appellant, but instead teaches mounting the sensor to the risers.

The examiner argues that Appellant has not presented arguments as to why the element 16 cannot be interpreted as a "track." Seat track assemblies that allow fore/aft adjustment of a vehicle seat are well known in the art. Risers/brackets 16, 18, 20 are used to adjust the height of a vehicle seat. One of ordinary skill in the art would never consider seat tracks and risers as being identical or even similar components.

While it is well settled that terms in a claim are to be given their broadest reasonable interpretation, this interpretation must be consistent with the specification, with claim language being read in light of the specification as it would be interpreted by one of ordinary skill in the art. In re Bond 910 F. 2d 831, 833, 15 USPQ2d 1566, 1567 (Fed. Cir. 1990). In interpreting

Verma, the examiner has improperly expanded the meaning to be given to the claim term "track." Verma clearly teaches a vehicle seat 10 with a seat pan 14 attached to brackets 16. "Each bracket has a front riser portion 18 and a rear riser portion 20 which engage the support 14, and an intermediate beam 22 interconnecting the riser portions. . . . The brackets 16, in turn are mounted by bolts 25 on tracks 26 which allows fore and aft adjustment of the seat." See column 2, lines 13-22.

Further, the seat structure of Figure 4 in Verma includes spacers 32 at each bolt to separate the risers 18, 20 from the tracks 26. This configuration results in the vertical force imposed on the riser portions 18, 20 inboard of the spacers 32 to apply a moment to the beams 22. In this configuration, the beams are allowed to flex slight due to the separation from the track and the sensors 30 on the beams 22 thus respond to the total force applied to the brackets 16. See column 2, lines 43-53. Thus, Verma teaches a mounting configuration that requires the sensor 30 to be mounted to structure other than the seat tracks.

This is very different than Appellant's mounting configuration. As described at page 6, lines 1-5 of the subject application, Appellant's system for measuring the weight of the seat occupant is installed within a seat track assembly. The seat track assembly includes a first track member mounted to a vehicle structure and a second track member that is supported for movement relative to the first track member along a longitudinal axis. Sensors are mounted on one of the track members.

One of ordinary skill in the art simply would not consider the riser 18, to which the sensor 30 is mounted, as corresponding to Appellant's claimed "track," especially since Verma clearly describes component 18 as being a riser and not a track. Further, the component the

examiner is equating to the first track, i.e. component 26 in Verma, clearly includes both the first and second tracks that form a traditional seat track assembly. Each reference in Verma to component 26 is a reference to “tracks” (plural) and not to a single “track.” Because Verma does teach mounting a sensor to one of the tracks, Verma cannot anticipate Appellant’s invention as set forth in claim 1.

(3) Group B – Claim 5

Claim 5 includes the feature of the first track having a forward end and a rearward end with a central track portion extending between the ends where the sensor is positioned along the central track portion. The examiner argues that Verma teaches that the sensor 30 is positioned at the center of the second track 16, 18, 20 and thus teaches that the sensor is positioned along the central track portion.

First, for the reasons, set forth above, one of ordinary skill in the art would never consider components 16, 18, 20 in Verma as corresponding to Appellant’s claimed second track. Second, even assuming that components 16, 18, 20 could be interpreted as a second track, the examiner admits that the sensor is positioned at the center of the second track and not the first track as claimed by Appellant.

Finally, the examiner argues that Appellant’s arguments are directed only to limitations that are found in claim 4. Appellant strongly disagrees with this characterization of Appellant’s argument. Claim 5 is dependent from claim 4 and the combination of the limitations from claims 4 and 5 clearly define that the sensor is positioned on the central track portion of the first track

member, not the second track member, as argued by the examiner. Thus, Verma cannot anticipate claim 5.

(4) Group C – Claims 6-7

Claim 6 includes the feature of the at least one sensor comprising a first sensor positioned forwardly on the central track portion and a second sensor positioned rearwardly on the central track portion with the first and second sensors for measuring deflection of the second track to generate the signal. The examiner argues that Verma teaches a first sensor 30 positioned forward of the second track 16, 18, 20 and a second sensor 30 positioned rearward of the second track 16, 18, 20, citing Figure 1. The examiner further argues that the first and second sensors 30 measure deflection of the second track just as the other embodiments in Verma and just as claimed by Appellant. Appellant respectfully disagrees.

First, for the reasons, set forth above, one of ordinary skill in the art would never consider components 16, 18, 20 in Verma as corresponding to Appellant's claimed second track. The examiner argues that component 16 is interpreted as a track because it is connected to and moves in relation to element 26. Component 16 does not move in relation to element 26. Element 26 is the entire seat track assembly itself, and includes a first, stationary track member and a second, movable track member.

The examiner asserts that Appellant's argument that the track set forth in claim 6 is a movable track supports examiner's position that component 16 can be interpreted as a track. Applicant disagrees. While the examiner argues that just because "the prior art fails to explicitly label element 16 as a 'track' does not mean that one could not deem such an element as a track,"

it is clear from Verma that component 16 was not labeled as a track because it is not a track. In other words, component 16 is labeled as a bracket forming the risers 18, 20 because it is a riser, while tracks 26 are labeled as tracks because they form the stationary and movable track members that make up the track assembly. Just because the examiner interprets component 16 to be a track, contrary to the teachings and labeling of the prior art reference, does not make it a track. One of ordinary skill in the art would never consider the riser 18, to which the sensor 30 is mounted, as corresponding to Appellant's claimed "track."

Second, even assuming that components 16, 18, 20 could be interpreted as a second track, the examiner admits that the sensors are positioned at different positions on components 16, 18, 20, which is very different than the configuration set forth in claim 6. Claim 6 requires first and second sensors to be mounted in the central track portion of the first track, i.e., the track mounted to the vehicle structure. Component 16 is clearly not mounted to the vehicle structure.

Finally, the sensors do not and cannot measure deflection of the seat tracks in Verma. As discussed above, the sensors 30 in Verma are mounted to the risers 18, 20, not the seat track, and therefore the sensors measure deflection of the riser, not the seat track. It is impossible for the sensors 30 in Verma to measure deflection of either seat track in the seat track assembly 26 because the load is applied to the seat 10 and then transferred to the risers 18, 20 where the deflection of the risers 18, 20 is measured. Thus, Verma cannot anticipate claim 6.

(6) Group E – Claims 21 and 30

Claims 21 and 30 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Verma alone. Claim 21 is dependent from claim 1 and includes the feature of the sensor being

mounted to the first track. The examiner states that Verma teaches a sensor 30 mounted to the second track 16, 18, 20 but fails to teach the sensor being attached to the first track 26. The examiner argues that it would be obvious to place the sensor 30 of Verma on the first track 26 instead of the second track based on the motivation that “Verma et al. teach the measurement of a deflection of a track in order to determine seat occupant weight wherein the first track (26) is connected to and in a parallel relationship with the second track (16).”

For the reasons, set forth above, one of ordinary skill in the art would never consider components 16, 18, 20 in Verma as corresponding to Appellant’s claimed second track. Further, none of the sensors in Verma are mounted to tracks 26.

The examiner argues that Appellant’s arguments are directed to a benefit and states that the benefit is not claimed, “thus no nexus exists between the Appellant’s argument and the claimed subject matter of claim 21.” Appellant disagrees. The examiner is rejecting claim 21 under 35 U.S.C. 103(a) based on the motivation that it is just as easy to mount a sensor to one track member as opposed to another track member. Appellant has invented a unique mounting configuration that improves seat occupant weight measurement, as argued in Appellant’s Appeal Brief. The examiner has already admitted that Verma does not anticipate claim 21 and is arguing that there is no importance between the first and second track members. Appellant is responding to the examiner’s argument by pointing out the benefit of Appellant’s configuration. Thus, Appellant’s “benefit” argument is directed toward examiner’s motivation to make the modification to Verma, and whether or not this benefit is claimed is irrelevant.

Also, the motivation offered by the examiner as the reason why one of ordinary skill in the art would make the argued modification to Verma is not proper. The examiner has pointed to

no teaching in Verma of any particular benefit to be derived from moving the sensor 30 from the riser to the track member that is mounted to a vehicle structure. In addition, there is nothing in Verma that would have led one of ordinary skill in the art to believe that Verma's system was in any way deficient or in need of modification. One of ordinary skill in the art would have found no reason, suggestion, or incentive for attempting to modify Verma, as argued by the examiner, other than through the luxury of hindsight accorded one who first viewed Appellant's disclosure. This is not a proper basis for a rejection under 35 U.S.C. 103(a).

Further, Verma teaches away from mounting sensors to the seat tracks. As known, the proposed modification cannot render the prior art unsatisfactory for its intended purpose. Verma indicates that an attachment configuration where load cells were installed between the seat frame and the seat track was undesirable because it made the load cell a structural component. This required reevaluation of the seat design to assure that crash worthiness requirements are met. Verma addressed this problem by mounting the sensors to the riser members 18, 20. Because Verma teaches away from associating the sensors with the track, as claimed by Appellant, there simply is no motivation to make the examiner's modification.

The examiner responds by arguing that Appellant's assertion that Verma teaches away from associated sensors with the track is not "true because the prior art has set forth various alternative embodiments and the embodiment shown in figure 4 does not have sensors mounted to the riser member 18 or 20." Just because the prior art offers different embodiments, does not mean that the reference does not teach away from associating sensors with the seat tracks. None of the embodiments in Verma teach mounting sensors to the seat tracks. Figure 4 shows mounting the sensor to bracket 16 on the intermediate beam portion 22 that connects the risers

18, 20. Beam 22 and risers 18, 20 are all one piece that forms the bracket 16, which as discussed above, is not a track.

The examiner also argues that Appellant has never claimed that the first track is a "stationary" track. The claim language must be interpreted in light of the specification as it would be interpreted by one of ordinary skill in the art. Claim 1 is directed to a system for measuring weight of an occupant on a vehicle seat comprising a first track mounted to a vehicle structure and a second track supported for movement relative to the first track. In order for this seat track assembly to work in a vehicle seat, the first track would have to be stationary. Appellant's representative knows of no seat track assembly where both the first and second track members move to achieve seat adjustment.

The examiner also argues that "the Appellant states that the prior art teaches mounting a sensor to a moving "track member," citing page 13, first full paragraph. This is an incorrect characterization of Appellant's argument. Appellant argued that, "Verma does not disclose, suggest, or teach mounting a sensor to the stationary track member and instead teaches mounting a sensor to a riser that moves with the sliding track member and seat bottom. The only teaching of mounting a sensor to the stationary track member is in Appellant's own disclosure, which cannot be used as motivation or suggestion to make a modification." Page 13, first full paragraph of Appeal Brief.

Thus, as Appellant has been arguing throughout, Verma mounts the sensors to the riser, not the tracks. Further, claim 21 requires the sensor to be mounted to the first track with the second track moving relative to the first track. Even assuming that component 16 can be equated to a track member, the sensor 30 is mounted on the component 16 that moves relative to the first

track, and is not mounted on the first track where the second track moves relative to the first track as claimed by Appellant.

Finally, contrary to examiner's argument, the sensors do not and cannot measure deflection of the seat tracks in Verma. As discussed above, the sensors 30 in Verma are mounted to the risers 18, 20, not the seat track, and therefore the sensors measure deflection of the riser, not the seat track. It is impossible for the sensors 30 in Verma to measure deflection of either seat track in the seat track assembly 26 because the load is applied to the seat 10 and then transferred to the risers 18, 20 where the deflection of the risers 18, 20 is measured.

For all of the reasons set forth above, the rejection of claims 21 and 30 is improper and should be reversed.

(7) Group F – Claims 25, 26, and 29

Claim 25 includes the feature of the inboard and outboard track assemblies having a predetermined cross-sectional area with each track assembly having at least one track portion having a cross-sectional area that is less than the predetermined cross-sectional area where the first and second sensor assemblies are mounted on the track portion.

For the reasons, set forth above, one of ordinary skill in the art would never consider components 16, 18, 20 in Verma, which clearly form the riser, as corresponding to Appellant's claimed second track that moves relative to the first track. Further, because component 16 is not a track and could not be interpreted as corresponding to a track, there is no teaching in Verma of the seat tracks having a track portion with a reduced cross-sectional area in which the sensors are

mounted. Verma clearly shows that the tracks 26 have a continuous and constant cross-sectional area along the length of the tracks 26.

The examiner states that Appellant's argument that Verma does not teach mounting sensors to tracks contradicts Appellant's argument with regard to claim 21. This is not true. For the reasons discussed above, Appellant never argued that Verma mounted sensors to seat tracks, but instead argued that Verma mounted sensors to the riser. Further, the examiner has indicated that the seat track that Appellant is referring to in Appellant's arguments, is that of seat track 26 and is not the same seat track to which the examiner refers. Appellant's arguments refer to seat tracks 26 because the first and second track members that make up the inboard and outboard track assemblies are solely contained within component 26. The "seat track" to which the examiner is referring is not a seat track but is instead a riser, as clearly described in Verma.

For all of the reasons set forth above, Verma does not anticipate claims 25-26 and 29 and the rejection should be reversed.

(8) Group G – Claims 27

Claim 27 includes the feature of the track portion, with the cross-sectional area that is less than the predetermined cross-sectional area, being located in the central portion of the track.

For the reasons, set forth above, one of ordinary skill in the art would never consider components 16, 18, 20 in Verma, which clearly form the riser, as corresponding to Appellant's claimed second track that moves relative to the first track. Further, because component 16 is not a track and could not be interpreted as corresponding to a track, there is no teaching in Verma of the seat tracks having a track portion with a reduced cross-sectional area in which the sensors are

mounted. Verma clearly shows that the tracks 26 have a continuous and constant cross-sectional area along the length of the tracks 26. Thus, as there is no track portion with a reduced cross-sectional area in Verma there is no teaching of a reduced cross-sectional area in a central portion of the track.

The examiner argues that central portion 22 is a central portion of track 16 that has a reduced cross-section. As described in Verma, beam 22 is a connecting portion that extends between risers 18, 20 and is not a track.

For all of the reasons set forth above, Verma does not anticipate claim 27 and the rejection should be reversed.

(9) Group I – Claims 31-32

Claim 31 is a method claim that includes the steps of mounting a first sensor assembly to the first track assembly and generating a first signal from the first sensor assembly in response to deflection of the first track assembly due to seat occupant weight generated by the occupant sitting on the vehicle seat.

The examiner states that Appellant's term "first track assembly" includes the first track as well as the second track. This is true. The examiner then argues "[t]his terminology used by the Appellant supports the earlier statement by the Examiner that in the art the two mating tracks of a seat mounted to a vehicle floor are commonly referred to, as a whole, as a track." This directly contradicts the description in Verma, in which component 26 is repeatedly referred to as tracks. The tracks 26 in Verma include both a first track member mounted to a vehicle structure and a second track member mounted for movement relative to the first track member. Thus,

component 16, which the examiner refers to as the second track, is not a track member, but is instead a riser member because Verma clearly teaches that both seat tracks are contained within component 26. Further, for the reasons discussed above, one of ordinary skill in the art would never equate risers 18, 20 in Verma as corresponding to Appellant's claimed second track.

Finally, Verma does not generate signals in response to deflection of the track assembly as claimed by Appellant. Verma teaches away from Appellant's claimed mounting configuration by generating signals in response to deflection of the risers 16, 18, 20, which is positioned below the seat bottom and above the seat tracks. The sensors 30 are mounted to the risers such that "they respond to the full occupant seated weight whether transmitted only through the cushion 12 or partially through the seat back 24." See col. 2, lines 29-33. The sensors 30 in Verma do not measure deflection of the tracks 26 because the sensors 30 are mounted to a seat component 16 at a position located above the seat tracks 26. Thus, Verma does not anticipate claims 31-32.

(10) Group J – Claims 33-35

Claim 33 includes the steps of the first and second track assemblies being defined by a predetermined cross-sectional area where each track assembly has at least one track segment with a cross-sectional area that is less than the predetermined cross-sectional area, and which further includes the steps of mounting the first sensor assembly in the track segment of the first track assembly and mounting the second sensor assembly in the track segment of the second track assembly.

For the reasons, set forth above, one of ordinary skill in the art would never consider components 16, 18, 20 in Verma, which clearly form the riser, as corresponding to Appellant's

claimed second track that moves relative to the first track. Further, because component 16 is not a track, and could not be interpreted as corresponding to a track, there is no teaching in Verma of the seat tracks having a track portion with a reduced cross-sectional area in which the sensors are mounted. Verma clearly shows that the tracks 26 have a continuous and constant cross-sectional area along the length of the tracks 26.

The examiner has indicated that the seat track that Appellant is referring to in Appellant's arguments is that of seat track 26 and is not the same seat track to which the examiner refers. Appellant's arguments refer to seat tracks 26 because the first and second track members that make up the inboard and outboard track assemblies are solely contained within component 26. The "seat track" to which the examiner is referring is not a seat track but is instead a riser, as clearly described in Verma.

For all of the reasons set forth above, Verma does not anticipate claims 33-35 and the rejection should be reversed.

(11) Group K – Claim 36

Claim 36 includes the step of locating the track segment in the center portion.

For the reasons, set forth above, one of ordinary skill in the art would never consider components 16, 18, 20 in Verma, which clearly form the riser, as corresponding to Appellant's claimed second track that moves relative to the first track. Further, because component 16 is not a track and could not be interpreted as corresponding to a track, there is no teaching in Verma of the seat tracks having a track portion with a reduced cross-sectional area in which the sensors are mounted. Verma clearly shows that the tracks 26 have a continuous and constant cross-sectional

area along the length of the tracks 26. Thus, as there is no track portion with a reduced cross-sectional area in Verma there is no teaching of a reduced cross-sectional area in a central portion of the track.

The examiner argues that central portion 22 is a central portion of track 16 that has a reduced cross section. As described in Verma, beam 22 is a connecting portion that extends between risers 18, 20 and not a track.

For all of the reasons set forth above, Verma does not anticipate claim 36 and the rejection should be reversed.

(12) Group L – Claim 37

Claim 37 includes the feature of the first sensor assembly being comprised of a first sensor mounted rearwardly within the first track assembly and a second sensor mounted forwardly within the first track assembly and wherein the second sensor assembly is comprised of a third sensor mounted rearwardly within the second track assembly and a fourth sensor mounted forwardly within the second track assembly.

The examiner first states that Appellant has argued that the prior art fails to teach inboard and outboard track assemblies. This is not true. Appellant never argued that Verma did not teach inboard and outboard track assemblies.

The examiner also argues that claim 37 mentions nothing about cross-sectional area or anything about inboard and outboard track assemblies. Claim 37 is dependent from claim 33, which includes the limitations of inboard and outboard track assemblies and cross-sectional areas. Appellant is arguing that claim 37, as it would be written in independent form with its

associated intervening claims, is patentably distinct from claim 33. The examiner appears to be reading claim 33 in a vacuum, disregarding the fact that claim 37 is dependent from claim 33, which is dependent from claim 32, which is dependent from claim 31. Thus, there is a nexus between the claimed subject matter and Appellant's arguments.

Finally, the examiner argues that the prior art sets forth that four strain gages are used, i.e. one for each foot. However none of these gages are mounted within the tracks 26 in Verma. Claim 37 specifies that first and second sensors are mounted within the first track assembly (one of the inboard or outboard track assemblies) and third and fourth sensors are mounted within the second track assembly (the other or the inboard or outboard track assemblies). Verma simply does not teach this configuration and thus cannot anticipate claim 37.

(13) Group M – Claim 38

Claim 38 stands rejected under 35 U.S.C. 103 103(a).

Claim 38 includes the steps of mounting the first sensor assembly to the first track of the first track assembly and mounting the second sensor assembly to the third track of the second track assembly.

The examiner first argues that claim 38 mentions nothing about cross-sectional area or anything about inboard and outboard track assemblies. Claim 38 is dependent from claim 33, which includes the limitations of inboard and outboard track assemblies and cross-sectional areas. Appellant is arguing that claim 38, as it would be written in independent form with its associated intervening claims, is patentably distinct from claim 33. The examiner appears to be reading claim 33 in a vacuum, disregarding the fact that claim 38 is dependent from claim 33,

which is dependent from claim 32, which is dependent from claim 31. Thus, there is a nexus between the claimed subject matter and Appellant's arguments.

For the reasons, set forth above, one of ordinary skill in the art would never consider components 16, 18, 20 in Verma as corresponding to Appellant's claimed second track. Further, none of the sensors in Verma are mounted to tracks 26.

The examiner argues that Appellant's arguments are directed to a benefit and states that the benefit is not claimed. The examiner is rejecting claim 38 under 35 U.S.C. 103(a) based on the motivation that it is just as easy to mount a sensor to one track member as opposed to another track member. Appellant has invented a unique mounting configuration that improves seat occupant weight measurement, as argued in Appellant's Appeal Brief. The examiner has already admitted that Verma does not anticipate claim 38 and is arguing that there is no importance between the first and second track members. Appellant is responding to the examiner's argument by pointing out the benefit of Appellant's configuration. Thus, Appellant's "benefit" argument is directed toward examiner's motivation to make the modification to Verma, and whether or not this benefit is claimed is irrelevant.

Also, the motivation offered by the examiner as the reason why one of ordinary skill in the art would make the argued modification to Verma is not proper. The examiner has pointed to no teaching in Verma of any particular benefit to be derived from moving the sensor 30 from the riser to the stationary track of the track assembly 26. In addition, there is nothing in Verma that would have led one of ordinary skill in the art to believe that Verma's system was in any way deficient or in need of modification. One of ordinary skill in the art would have found no reason, suggestion, or incentive for attempting to modify Verma, as argued by the examiner, other than

through the luxury of hindsight accorded one who first viewed Appellant's disclosure. This is not a proper basis for a rejection under 35 U.S.C. 103(a).

Further, Verma teaches away from mounting sensors to the seat tracks. As known, the proposed modification cannot render the prior art unsatisfactory for its intended purpose. Verma indicates that an attachment configuration where load cells were installed between the seat frame and the seat track was undesirable because it made the load cell a structural component. This required reevaluation of the seat design to assure that crash worthiness requirements are met. Verma addressed this problem by mounting the sensors 30 to the riser members 18, 20. Because Verma teaches away from associating the sensors with the track, as claimed by Appellant, there simply is no motivation to make the examiner's modification.

The examiner responds by arguing that Appellant's assertion that Verma teaches away from associated sensors with the track is not "true because the prior art has set forth various alternative embodiments and the embodiment shown in figure 4 does not have sensors mounted to the riser member 18 or 20." Just because the prior art offers different embodiments, does not mean that the reference does not teach away from associating sensors with the seat tracks. None of the embodiments in Verma teach mounting sensors to the seat tracks. Figure 4 shows mounting the sensor to bracket 16 on the intermediate beam portion 22 that connects the risers 18, 20. Beam 22 and risers 18, 20 are all one piece that forms the bracket 16, which as discussed above, is not a track.

The examiner also argues that Appellant has never claimed that the first track is a "stationary" track. The claim language must be interpreted in light of the specification as it would be interpreted by one of ordinary skill in the art. Claim 1 is directed to a system for

measuring weight of an occupant on a vehicle seat comprising a first track mounted to a vehicle structure and a second track supported for movement relative to the first track. In order for this seat track assembly to work in a vehicle seat, the first track would have to be stationary. Appellant's representative knows of no seat track assembly where both the first and second track members move to achieve seat adjustment.

The examiner also argues that "the Appellant states that the prior art teaches mounting a sensor to a moving "track member." For the reasons set forth above with regard to claims 21 and 30 this is an incorrect characterization of Appellant's argument. Appellant argued that, "Verma does not disclose, suggest, or teach mounting a sensor to the stationary track member and instead teaches mounting a sensor to a riser that moves with the sliding track member and seat bottom. The only teaching of mounting a sensor to the stationary track member is in Appellant's own disclosure, which cannot be used as motivation or suggestion to make a modification." Page 13, first full paragraph of Appeal Brief.

Thus, as Appellant has been arguing throughout, Verma mounts the sensors to the riser, not the tracks. Further, claim 38 requires the sensor to be mounted to the first track with the second track moving relative to the first track and the second sensor to be mounted to the third track of the second track assembly. Even assuming that component 16 can be equated to a track member, the sensor 30 is mounted on the component 16 that moves relative to the first track, and is not mounted on the first track where the second track moves relative to the first track as claimed by Appellant.

Finally, contrary to examiner's argument, the sensors do not and cannot measure deflection of the seat tracks in Verma. As discussed above, the sensors 30 in Verma are mounted

to the risers 18, 20, not the seat track, and therefore the sensors measure deflection of the riser, not the seat track. It is impossible for the sensors in Verma to measure deflection of either seat track in the seat track assembly 26 because the load is applied to the seat 10 and then transferred to the risers 18, 20 where the deflection of the risers 18, 20 is measured.

For all of the reasons set forth above, the rejection of claim 38 is improper and should be reversed.

CONCLUSION

For the reasons set forth above and in the Appeal Brief, the rejection of claims 1-7, 21, 24-27, 29-38 is improper and should be reversed.

Respectfully submitted,

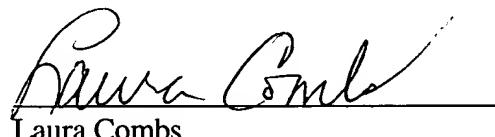


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Dated: June 27, 2003

CERTIFICATE OF MAIL

I hereby certify that the enclosed Reply Brief is being deposited in triplicate with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 27 day of June, 2003.


Laura Combs